

VIRGINIA BOARD OF MEDICINE EXECUTIVE COMMITTEE MINUTES

Friday, December 16, 2005 11:00 a.m. Department of Health Professions Richmond, VA

CALL TO ORDER: The meeting of the Committee convened at 11:02 a.m.

MEMBERS PRESENT: Thomas Leecost, DPM, President
Sandra Bell, MD
Christine Ober Bridge
Malcolm Cothran, II, MD
Stephen Heretick, JD
Juan Montero, MD

MEMBERS ABSENT: John Armstrong, MD
Valerie Hoffman, DC

STAFF PRESENT: William L. Harp, MD, Executive Director
Barbara Matusiak, MD, Medical Review Coordinator
Kate Nosbisch, Deputy Executive Director – Practitioner Information
Ola Powers, Deputy Executive Director - Licensure
Karen Perrine, Deputy Executive Director - Discipline
Gail Jaspen, Agency Deputy Executive Director
Elaine Yeatts, DHP Senior Policy Analyst
Emily Wingfield, Assistant Attorney General
Colanthia Morton Opher, Recording Secretary

OTHERS PRESENT: Mike Jurgensen, Medical Society of Virginia
Tyler Cox, Medical Society of Virginia
Karen Day, MD, Director of Dental Health, Bright Smiles Program, VDH
Scotti Russell, Executive Director, Board of Pharmacy

Approval of the May 20, 2005 Minutes

Dr. Cothran moved to accept the minutes of May 20, 2005. The motion was seconded and carried.

Adoption of Agenda

Ms. Yeatts requested two additional items be added to the agenda, 1-Recommendation from the Legislative Committee for the adoption of NOIRA on continuing medical education and 2-Recommendation on the completion of a competency evaluation pursuant to 2005 law. Dr. Harp suggested that agenda item #4 be moved to the top of the agenda to allow for public comment from Karen Day, MD. Dr. Montero moved to adopt the amended agenda. The motion was seconded and carried.

Public Comment on Agenda Items

Karen Day, MD with the Department of Health informed the board of a report released by CDC in September 2005 regarding the resurgence of decay of primary teeth in children ages zero to three. Dr. Day advised that the Department of Health received a grant to start a program called Bright Smiles for Babies. Dr. Day stated that the program focuses on education for the parent, risk assessment and screening and treatment. Dr. Day informed the Board that there are currently 15 states providing fluoride varnishing. Some have been providing this treatment for as long as five years. She also stated that this treatment has been provided for as long as 30 years in Canada. Dr. Day advised the committee that the program has been up and running for two years and targets low-income children. Dr. Day fielded questions from the committee members to include the practicality of providing this care, access to available dental care, and reimbursement issues.

NOIRA on Collaborative Practice with the Board of Pharmacy

Ms. Yeatts reviewed the NOIRA on collaborative practice between the Board of Pharmacy and the Board of Medicine. Ms. Yeatts advised that the amendments would clarify certain provisions regarding standards of care and modify some provisions that have been identified as cumbersome or burdensome.

Scotti Russell, Executive Director for the Board of Pharmacy provided the committee with background on what the collaborative agreement is and advised that it was a sunset clause that was re-enacted by the General Assembly in 2004. Ms. Russell advised that this agreement is related to the special care that allows pharmacists to make adjustments based on information such as lab values, diabetes care, etc.

After discussion, Dr. Bell moved to approve a NOIRA jointly with the Board of Pharmacy to consider amendments to the collaborative agreement to address the issues as discussed. The motion was seconded and carried.

Recommendations for a NOIRA for review of the provisional license regulations from the Advisory Board on Athletic Training

Dr. Montero moved to adopt a NOIRA to amend the regulations to be more specific about the level of supervision and oversight of the practice of individuals with a provisional license. The motion was seconded and carried.

Recommendation for a Notice of Periodic Review for the regulations governing respiratory care from the Advisory Board on Respiratory Care

Ms. Yeatts advised that the concern from the members of the advisory board pertains to licensing requirements, renewal procedures, and reinstatement. Ms. Yeatts informed the committee the recommendation from the advisory board is to perform a periodic review of all the current regulations beginning in 2006.

Mr. Heretick moved to approve the publishing of a periodic review for the regulations governing the practice of respiratory care practitioners. The motion was seconded and carried.

Fluoride Varnishing as the Practice of Medicine

The committee discussed the comments previously provided by Dr. Day and after lengthy discussion by the committee, Dr. Leecost called the question.

Dr. Cothran moved for the board to recommend that the application of fluoride varnish could be considered the practice of medicine. The motion was seconded and carried with Dr. Montero opposing.

Exempt Action – Change in Return Check Fee

Ms. Yeatts advised that this is an exempt action for a change in fees for a returned check from \$25.00 to \$35.00. Ms. Yeatts explained the reason for exemption as included in §2.2-614.1 and that this change would apply to all professions regulated by the Board.

Mr. Heretick moved to accept the fee change from \$25.00 to \$35.00 in compliance with the fee set in the Administrative Process Act. The motion was seconded and carried.

Recommendation from Legislative Committee

Ms. Yeatts advised that the Legislative Committee recommends that the Executive Committee consider the petition for rulemaking from MSV and the issuance of a of NOIRA requesting the elimination of the face-to-face hours for continuing education. Ms. Yeatts informed the committee that during the discussion, the Legislative Committee also voted to expand the NOIRA to include an examination of all the hours to determine whether the ratio of Type I and Type II was appropriate.

Dr. Harp provided insight on how continuing education audit was currently done by board staff and advised that there is really no way to track category II. Dr. Harp suggested that the Board's website be a repository for practitioners to record their hours stating that it would be easier for auditing purposes and would provide additional information to the public.

Dr. Montero moved to approve the recommendation by the Legislative Committee to consider eliminating face to face hours as a part of Category I continuing education and also consider the ratio of Type I and Type II. The motion was seconded and carried.

Evaluation of Physician Competency

Ms. Yeatts advised that the Legislative Committee recommended that the board identify those physicians who have three paid claims using the information in the DHP data base and the Virginia Profile. Once a practitioner's identified, a letter would be sent with instructions to obtain a competency evaluation. The practitioner would then submit back to the board his proposed means for obtaining the evaluation. The board would delegate to the executive director or his designee the approval of the program with the results of the evaluation to be sent to the Board.

Dr. Cothran addressed the concern voiced by Dr. Montero on MSV's concern about outsourcing the evaluation. Dr. Harp advised that UVA, EVMS and VCU have agreed to compile a list of practitioners within their school that will be willing to serve as evaluators. Dr. Harp also advised that certain issues of confidentiality, immunity and compensation still need to be worked out.

After further discussion, Ms. Bridge moved to accept the proposed procedure as discussed. The motion was seconded and carried.

Announcements: Next scheduled meeting is April 7, 2006.

Adjournment: With no other business to conduct, the meeting adjourned at 12:13 p.m.

Thomas Leecost, DPM
President

William L. Harp, M.D.
Executive Director

Colanthia Morton Opher
Recording Secretary